

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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MAILED

AUG 08 2006

U.S. PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Ex parte LORRAINE MIGNAULT

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Application No. 09/762,232

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was received electronically at the Board of Patent Appeals and Interferences (BPAI) on August 1, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

(1) Appellant filed an Appeal Brief on February 27, 2006. The brief is defective for the following reason:

The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any by reference characters, and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. § 112, sixth paragraph, and/or (2) set forth the structure, material, or ads described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and the drawings, if any, by reference characters (37 CFR § 41.37(c)(1)(v)).

The “*Summary of Claimed Subject Matter*” on page 2 of appellant’s brief does not map the independent claims to the specification, as required by 37 CFR § 41.37(c)(1) (v). A substitute brief that is in compliance with 37 CFR § 41.37(c) (1)(v) is required.

(2) In a Memorandum to the Technology Center Directors and Patent Examining Corps dated April 29, 2002 and entitled "Reliance upon abstracts and foreign language documents in support of a rejection," the Deputy Commissioner for Patent Examination Policy mandated that "[e]ffective immediately, no appeal should be forwarded to the Board of Patent Appeals and Interferences for decision where . . . a rejection is supported in whole or part by a prior art document not in the English language, unless accompanied by a translation of the prior art document into English."<sup>1</sup> In the rejections of the claims on appeal, the examiner has applied the abstract of Russian Patent, Patrasenko et al. (RU 2085296) and a copy of the abstract appears in the application Image File Wrapper (IFW). However, we do not find a complete English translation of the Russian patent, in the electronic file. An English copy is needed.

Accordingly, it is

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<sup>1</sup> Most of the memorandum’s content now appears in MPEP § 706.02.

ORDERED that the application is returned to the Examiner:

- a) to hold the Appeal Brief filed February 27, 2006, defective and notification to appellant to file a substitute Appeal Brief correcting the deficiency in the "*Summary of the Claimed Subjected Matter*",
- b) to obtain, have translated into English (if not already so), and scanned into the electronic file, a complete translation of the Patrasenko et al. reference (RU 2085296), and
- c) for such further action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

By:



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DMS/vsh

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